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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/802,163

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Christopher Keith

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EXAMINER

GRAHAM, CLEMENT B

ART UNIT

PAPER NUMBER

3692

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/802,163

Applicant(s)

KEITH, CHRISTOPHER

Examiner

Clement B. Graham

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-7 remained pending and claims 8-17 has been added.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, are rejected under 35 U.S.C. 102(e) as being anticipated by Madoff et al (Hereinafter Madoff U.S Publication 2001/0044767).

As per claim 1, Madoff discloses a method of facilitating trading, comprising: satisfying a condition at a market participant in which the market includes the market participant and market participants, and wherein for a potential trade the market includes prices for a side and a contra side of the potential trade .("i. e, market price" see column 1 lines 0006-0007") and automatically at a market participant's computer(i. e, "displays order") receiving a new contra-side(see column 6 paragraph 0058-0059) best market price in advance of the other market participants as a result of satisfying the condition and only while the condition at the market is satisfied by the market participants.(Note abstract and see column 6 paragraph 0055-0057 and 062).

As per claim 2, , Madoff discloses, wherein the satisfying and receiving are performed by a trading process.(see column 6 paragraph 0055-0057 and 062).

As per claim 3, Madoff discloses, wherein the condition is providing the best market price for a side of the market. (see column 6 paragraph 0055-0057 and 062).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 4-5 and 7, are rejected under 35 U.S.C. 102(a) as being anticipated by Streamer free real time stock quote service (Hereinafter Streamer, and www.datek.com, www.findarticles.com/m4PRN/1999/NOV).

As per claim 4, Streamer discloses a method of facilitating trading at a market that includes prices for a side and a contra side of a potential trade, comprising: automatically, via a computer, selecting a party to receive notification of a new contra-side best market price in advance of other market participants, wherein the selected party is a market participant participating in a market with the other market participants and automatically via the notifying the selected party of a new contra-side best market price, and automatically via a computer, measuring a predetermined time from when notification of the new contra-side best market price was sent to the selected party and, after the predetermined time has elapsed, notifying the other market participants of the new contra-side best market price.(see page 1 and 2).

As per claim 7, Streamer discloses, further comprising checking a recently posted price to determine if the recently posted price is a new contra-side best market price. (see page 1 and 2).

As per claim 5, Streamer discloses, wherein the selected party is a provider of a best market price for a side of the market. (see page 1 and 2).

5. Claim 6, are rejected under 35 U.S.C. 103(a) as being unpatentable over Streamer free real time stock quote service (Hereinafter Streamer, and www.datek.com, www.findarticles.com/m4PRN/1999/NOV).

As per claim 6, Streamer fail to explicitly teach further comprising checking the identity of the selected party before providing the best market price to the selected party.

However Streamer discloses that registered users being provided access to the system(see page 1).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made that the teachings of Streamer would have consisted of a feature for identifying its registered from unregistered users in order to authenticate any user attempting to access the system.

As per claim 7, Streamer discloses, further comprising checking a recently posted price to determine if the recently posted price is a new contra-side best market price. (see page 1 and 2).

As per claim 8, Madoff discloses a system for facilitating trading at a market that includes prices for a side and a contra-side of a potential trade, comprising: a computer having a processing component that is configured to select a party to receive notification of a new contra-side best market price in advance of other market participants, wherein the selected party is a market participant participating in a market with the other market participants, and wherein the processing component is further configured to measure a predetermined time from when notification of a new contra-side best market price is sent to the selected party and, after the predetermined time has elapsed, to notify the other market participants of the new contra-side best market price. .(Note abstract and see column 6 paragraph 0055-0057 and 062).

As per claim 9, Madoff discloses wherein the selected party is a provider of a best market price for a side of the market. .(Note abstract and see column 6 paragraph 0055-0057 and 062).

As per claim 10, Madoff discloses wherein the processing component is configured to notify the selected party of the new contra-side best market price in advance of the other market participants only while the price provided by the selected party remains the best market price for the side of the market. .(Note abstract and see column 6 paragraph 0055-0057 and 062).

As per claim 11, Madoff discloses wherein the processing component is further configured to check a recently posted price for the side of the market to determine if the price is better than the price provided by the selected party, and if so, to replace the

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selected party with the provider of the recently posted price as a newly selected party to receive a new contra-side best market price in advance of the other market participants. .(Note abstract and see column 6 paragraph 0055-0057 and 062).

As per claim 12, Madoff discloses wherein the processing component is configured to check a recently posted price to determine if the recently posted price is a new contra-side best market price before notification of the recently posted price is sent to a market participant. .(Note abstract and see column 6 paragraph 0055-0057 and 062).

As per claim 13, Madoff discloses a computer-accessible medium having executable instructions stored thereon for facilitating trading, wherein the instructions, when executed, cause a computer to:
select a party to receive notification of a new contra-side best market price in advance of other market participants, wherein the selected party is a market participant participating in a market with the other market participants, and measure a predetermined time from when notification of a new contra-side best market price is sent to the selected party and, after the predetermined time has elapsed, notify the other market participants of the new contra-side best market price. .(Note abstract and see column 6 paragraph 0055-0057 and 062).

As per claim 14, Madoff discloses wherein the selected party is a provider of a best market price for a side of the market. .(Note abstract and see column 6 paragraph 0055-0057 and 062).

As per claim 15, Madoff discloses wherein the instructions cause the computer to notify the selected party of the new contra-side best market price in advance of the other market participants only while the price provided by the selected party remains the best market price for the side of the market.

As per claim 16, Madoff discloses wherein the instructions cause the computer to check a recently posted price for the side of the market to determine if the price is better than the price provided by the selected party, and if so, to replace the selected party with the provider of the recently posted price as a newly selected party to receive a new

contra-side best market price in advance of the other market participants. .(Note abstract and see column 6 paragraph 0055-0057 and 062).

As per claim 17, Madoff discloses wherein the instructions further cause the computer to check a recently posted price to determine if the recently posted price is a new contra-side best market price before sending notification of the recently posted price to a market participant. .(Note abstract and see column 6 paragraph 0055-0057 and 062).

Conclusion

Response to Arguments

6. Applicant's arguments files on 3/9/07 have been fully considered but they are moot in view of new grounds of rejections.

7. In response to Applicant's arguments pertaining to Madoff and streamer.

8. In response to Applicant's arguments that references fail to teach or suggest" claimed receiving, at a market participant's computer, a new contra-side best market price in advance of other market participants while the condition at the market is satisfied" these limitations are addressed by Madoff as follows, satisfying a condition at a market, and automatically at a market participant's computer receiving a new contra-side best market price in advance of other market participants while the condition at the market is satisfied. see column 6 paragraph 0055-0057 and 062.

It is inherently clear that the teachings of Madoff illustrates participant's can receive a new contra-side best market price in advance of other market participants while the condition at the condition at the market is satisfied.

9. In response to Applicant's arguments that references fail to teach or suggest" notifying other market participants of a new contra-side best market price after a predetermined time from when a selected party was notified of the new contra-side best market price" this limitation is addressed as follows Streamer discloses automatically via a computer notifying a selected party of a new contra-side best market price, and automatically via a computer notifying other market participants of the new contra-side best market price after a predetermined time from when the selected party was notified of the new contra side best price. see page 1 and 2.

It is inherently clear that the teachings of Streamer illustrates notifying other market participants of a new contra-side best market price after a predetermined time from when a selected party was notified of the new contra-side best market price.

10. Applicant's claims 1, 4, 8, 13, 15, states "potential trade, selecting a party to receive, configured to select, configured to notify, when executed, to receive, to notify"

However the subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

- (A) statements of intended use or field of use,
- (B) "adapted to" or "adapted for" clauses,
- (C) "wherein" clauses, or
- (D) "whereby" clauses.

This list of examples is not intended to be exhaustive. See also MPEP § 2111.04.

**>USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily). In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous.

Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.”).<

Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings.”). Any special meaning assigned to a term “must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention.” *Multiform Desiccants Inc. v. Medzam Ltd.*, 133 F.3d 1473, 1477, 45 USPQ2d 1429, 1432 (Fed. Cir. 1998). See also MPEP § 2111.01.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Souh can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

July 20, 2007


FRANTZY POINVIL
PRIMARY EXAMINER
Ac. 3692